



JAMES H. "JIM" BROWN
COMMISSIONER OF INSURANCE
STATE OF LOUISIANA

P.O. BOX 94214
BATON ROUGE, LOUISIANA 70804-9214
504.342-5300

DIRECTIVE NUMBER 139

July 25, 1996

To: Safeway Insurance Company
P.O. Box 91806
Lafayette, LA 70509

Ladies and Gentlemen:

You are to take notice of the following Louisiana Revised Statute: Title 22, Section 1263, which states:

"Each licensed surplus lines broker shall keep in his office in this state a full and true record of each surplus lines contract, procured by him including a copy of the daily report, if any, showing such of the following items as may be applicable:

- (1) Amount of the insurance;
- (2) Gross premiums charged;
- (3) Return premium paid, if any;
- (4) Rate of premium charged upon the several items of property;
- (5) Effective date of the contract, and the terms thereof;
- (6) Name and address of the insurer;
- (7) Name and address of the insured;
- (8) Brief general description of the property insured and where located;
- (9) Other information as may be required by the commissioner of insurance, including but not limited to the address of the worker's compensation claims office established by the insurer pursuant to La.R.S. 23:1161.1 and the name and address of the person authorized by the insurer to settle worker's compensation claims through such office or of the licensed claims adjuster retained by the insurer.

The record shall at all times be open to examination by the commissioner of insurance and whenever an examination shall be made by him of a surplus lines broker, such examination shall be in compliance with and pursuant to the provision of Part XXVIII of this Title, insofar as the provisions of that Part are applicable to such examination.

You are further advised to take notice of Directive 112, issued by the Department, which prohibits surplus lines insurers from soliciting surplus lines business and bypassing the surplus lines broker.

I have been advised that Safeway Insurance Company is housed in the same building as Southern General Agency, Inc. Southern General Agency, Inc. is a surplus lines broker, properly licensed by the Department of Insurance, and transacting business for Safeway Insurance Company.

I have been advised that Safeway Insurance Company has taken possession of the records of Southern General Agency, Inc., and has housed these records within the offices controlled by Safeway Insurance Company. I have also been advised that Safeway Insurance Company is denying Southern General Agency, Inc., free access to these records. These records comprise the records listed in the aforementioned statute, La.R.S. 22:1263, which must be maintained by the surplus lines broker, i.e., Southern General Agency, Inc. Furthermore, these records must be open to examination by the Department of Insurance at any time, pursuant to La.R.S. 22:1263.

You are hereby informed that these actions may constitute a violation of La.R.S. 22:3, which states:

"No person shall be authorized to transact or shall transact a business of insurance in this state without complying with the provisions of this Code."

If you are in any way restricting possession of the records by Southern General Agency, Inc., you are not complying with La.R.S. 22:1263, in that you are preventing Southern General Agency, Inc., from maintaining these records, as required by the Louisiana Insurance Code. Further, you may be in violation of La.R.S. 22:7(A), which states:

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"Whoever intentionally violates, aids, abets, counsels, or procures another person to intentionally violate any provision of this Code, upon conviction, unless a specific penalty is provided elsewhere in this Code, and in addition to any revocation, suspension or forfeiture of any license, power, privilege provided for in this Code, if a corporation, shall be fined not more than fifty thousand dollars; a natural person shall be fined not more than ten thousand dollars, or imprisoned with or without hard labor for not more than five years, or both."

YOU ARE HEREBY DIRECTED to IMMEDIATELY return such books and records that concern the affairs of Southern General Agency, Inc., in its operation as a surplus lines broker, to the unrestricted control of Southern General Agency, Inc.

JAMES H. "JIM" BROWN
Commissioner of Insurance
State of Louisiana.

BY: 
A. KIP WALL
Chief Deputy Commissioner